

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Form ETA-9089, <u>Application for Permanent Employment Certification</u> (OMB Control Number 1205-0451), extension of currently approved collection.

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about Form ETA-9089, Application for Permanent Employment Certification (OMB Control Number 1205-0451), which expires August 31, 2014. The form is used in DOL's employment-based immigration program by employers to request permission to bring foreign workers to the United States as immigrants, and in the Department of Homeland Security's National Interest Waiver (NIW) program by individuals applying for a waiver of the job offer requirement if the waiver is deemed to be in the national interest.

DATES: Written comments must be submitted to the office listed in the addresses

section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit written comments to William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Room C-4312, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number: 202-693-3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD). Fax: 202-693-2768. E-mail: ETA.OFLC.Forms@dol.gov subject line: ETA-9089. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection on ETA Form 9089 is required by sections 203(b)(2) and (b)(3) and 212(a)(5)(A) of the Immigration and Nationality Act (INA) (8 U.S.C. 1153(b)(2) and (3) and 1182(a)(5)(A)). DOL and the Department of Homeland Security (DHS) have promulgated regulations to implement the INA. Specifically for this collection, the regulations at 20 CFR 656 and 8 CFR 204.5 (the regulations) are applicable. Section 212(a)(5)(A) of the INA requires the Secretary of Labor to certify that any alien seeking to enter the United States for the purpose of performing skilled or unskilled labor is not adversely affecting wages and working conditions of U.S. workers similarly employed and that there are not sufficient U.S. workers able, willing, and qualified to perform such skilled or unskilled labor. Before any employer may request

any skilled or unskilled alien labor, it must submit a request for certification to the Secretary of Labor containing the elements prescribed by the INA and the regulations. The regulations require employers to document their recruitment efforts and to substantiate the reasons no U.S. workers were hired.

II. Review Focus

DOL is particularly interested in comments that:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.
- III. Current Actions: In order to meet its statutory responsibilities under the INA, DOL must extend without modification an existing collection of information pertaining to employers seeking to import foreign labor. The form used to collect the information is used not only by DOL, but also by Department of Homeland Security U.S. Citizenship and Immigration Services (USCIS) to meet the requirements of the INA. DOL uses the

information collected in its permanent certification program. USCIS uses the form for its National Interest Waiver program, and to consider employment-based immigration applications by employers of employees engaged in Schedule A-Shortage Occupations, and by employers of sheepherders.

Type of Review: extension

Title: Form ETA-9089, Application for Permanent Employment Certification

OMB Number: 1205-0451

<u>Affected Public</u>: Individuals or households, Business or other for-profits, and not-for-profit institutions, Farms, and Federal, state, local or tribal governments.

Form(s): ETA-9089

Total Annual Respondents: 73,400

Annual Frequency: On occasion

Total Annual Responses: 295,472

Average Time per Response: 46 minutes

Estimated Total Annual Burden Hours: 227,687

Total Annual Burden Cost for Respondents: \$467,000

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

SIGNED:

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training, Labor.

BILLING CODE – 4510-FP-P

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